



February 2, 2005

Country of Origin Labeling Program
Agricultural Marketing Service
U.S. Department of Agriculture
Room 2092-S
STOP 0249
1400 Independence Avenue, SW
Washington, DC 20250-0249

Re: Comments To Interim Final Rule Mandating Country of Origin Labeling of
Fish and Shellfish

These comments are being submitted by Mexico's National Commission of Aquaculture and Fisheries (CONAPESCA) in connection with the interim final rule published by the U.S. Department of Agriculture mandating country of origin labeling ("COOL") for wild and farm-raised fish and shellfish, as directed by the Farm Security and Rural Investment Act of 2002 and the 2002 Supplemental Appropriations Act. It is our understanding that the Secretary of Agriculture was to promulgate regulations implementing these acts by September 30, 2004. However, the FY 2004 Consolidated Appropriations Act (Public Law 108-199) delayed the applicability of mandatory COOL for all commodities covered by these two above-referenced laws, except for wild and farm-raised fish and shellfish. Implementation of mandatory COOL for other covered commodities was delayed until September 30, 2006. Mandatory COOL for wild and farm-raised fish and shellfish is scheduled to go into effect earlier, on April 4, 2005, for reasons apparently having nothing to do with science, health or food safety concerns.

On October 5, 2004, the Department of Agriculture published an Interim Final Rule implementing mandatory country of origin labeling for wild and farm-raised fish

and shellfish. (69 Fed. Reg. 59708.) Comments on this Interim Final Rule were to be submitted to the Department of Agriculture on or before January 3, 2005. In a notice published in the *Federal Register* on November 28, 2004, the Department of Agriculture extended the comment period until February 2, 2005 (69 Fed. Reg. 77609).

CONAPESCA wishes to state for the record its view that the COOL requirements being implemented by this Interim Final Rule should be repealed in full. It has been shown that the COOL requirements have no relation to food safety, provide no meaningful benefit to consumer, and will not contribute to the availability of high quality food products. COOL will also act as a non-tariff barrier to trade, and may present other undesirable trade effects such as market distortions. It will also increase costs, initially for fish and seafood products, but ultimately for all covered commodities, which will be passed on to consumers in the United States. CONAPESCA understands that the Department of Agriculture is implementing these rules pursuant to Congressional directive. CONAPESCA requests that the Department of Agriculture, to the extent possible, delay the implementation of this Rule until the U.S. Congress can reconsider this law.

CONAPESCA wishes to make clear that the filing of its comments today should not be read to indicate a change in its above-stated position with respect to COOL. This being said, CONAPESCA wishes to present its position with respect to the implementation of mandatory COOL requirements to wild and farm-raised fish and shellfish. It is CONAPESCA's position that implementation of mandatory COOL for wild and farm-raised fish and shellfish should be delayed until these requirements are implemented for all other commodities originally covered by the COOL legislation. CONAPESCA can not see any reason why wild and farm-raised fish and shellfish should become subject to mandatory COOL almost a year and a half before these

requirements are imposed on all other covered commodities. CONAPESCA requests that the Department of Agriculture reconsider the effective date of these regulations, and postpone the effective date until mandatory COOL becomes required for all covered commodities.

CONAPESCA is also concerned about the trade chilling effect that this rule will have. Both producers of covered commodities, and retailers who sell covered commodities, will think twice before sourcing products from multiple countries. While sourcing from multiple countries makes good business sense to the extent it reduces reliance on a single source of supply, and may improve the quality and sustainability of food products, with the added requirements and costs associated with compliance with the mandatory COOL requirements, it can be anticipated that many producers and retailers will simply begin to source product from a single source or country. This may be particularly true for small and medium size businesses, who will find the recordkeeping burdens unnecessarily onerous.

CONAPESCA is also concerned that this Rule does not adequately distinguish between the terms “wild” and “farm-raised” fish and shellfish. Commercial situations exist where it will be difficult to determine whether the fish and shellfish in question are actually “wild” or “farm-raised”, which could lead to confusion over the labeling required by section 60.200(d). For example, it is unclear which designation would apply to fish or shellfish which are caught in the open seas, but then held in a controlled environment for a period of time prior to being shipped to the retailer, and during the time spent in the controlled environment the fish and shellfish are fed and continue to grow. The regulations are not sufficiently detailed to permit a determination of which designation would apply in such a situation, nor any clear criteria to guide in making such a determination.

CONAPESCA respectfully requests that its concerns be taken into account before this Interim Final Rule becomes a final rule. More importantly, CONAPESCA requests that the implementation of mandatory COOL with respect to wild and farm-raised fish and shellfish be delayed until mandatory COOL becomes required for all covered commodities. Most importantly, however, CONAPESCA urges the Department of Agriculture to reconsider the appropriateness of implementing a mandatory COOL program, given that its costs far outweigh any benefits provided by the rule.

Your consideration of all these comments are appreciated by CONAPESCA.

Sincerely,

/s/

Mario Aguilar

CONAPESCA
General Representative

